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**REMARKS**

Claims 1-11 are pending in the application. Applicants respectfully request additional consideration and review of the claims in view of the following remarks.

**Rejections Under 35 USC § 102**

The Examiner has rejected claims 1-3 and 7-10 under 35 USC § 102(e) as being anticipated by U.S. Patent No. 6,075,628 ("Fisher"). Applicants respectfully traverse the rejection.

As discussed in the specification as filed, the present invention provides an improved technique for performance monitoring of an optical communications system. Specifically, claims 1, 7, 8, 9 and 10 are directed to methods and apparatus which, in part, separate the signal power in the framing portion of a signal from the noise power in the framing portion. The noise power is accordingly left in the framing portion of the signal. Such noise remaining in the framing portion can then be used and compared to the signal power in a data portion of the signal to determine a measure of the quality of the signal.

Applicants have carefully reviewed the cited reference to Fisher et al. and submit that Fisher et al. teaches a system fundamentally different from Applicants' invention, which employs a reflectometer and known filter techniques to detect reflections caused by fiber discontinuity or fault.

Regarding claim 1, the Examiner noted that Fisher et al. teaches, inter alia, "separating said electrical signal from the framing signal portion thereof and leaving in its time slot the noise that was on the framing signal". Applicants note that Fisher et al. in fact teaches (col. 3, lines 17-19) use of "...a low pass filter 33 to remove noise outside of the frequency band of the unwanted signals..."

Those skilled in the art will appreciate this teaching is a text-book use of low pass filters for removing noise.

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In sharp contrast, embodiments of the present invention teach a specially designed filter, *which cannot be a low pass filter, for removing the signal power, (not the noise as in Fisher et al.), in the full frequency band of transmission (as opposed to the "outside of the frequency band" in Fisher et al.) leaving the signal noise power in the framing portion time slot.*

Applicants further note that Fisher et al. teaches (col. 3, lines 24-26) that "[Its] circuit is only active during that part of the frame in which there is no signal other than reflections from the fiber discontinuities..." (emphasis added). In sharp contrast, the present invention is preferably active all the time and specifically during portions where there is *always a signal*.

In view of the foregoing, Applicants submit that Fisher et al. fails to disclose, teach or even suggest the apparatus or methods, as presently claimed. Accordingly, Fisher et al. does not anticipate independent claims 1, 7, 8, 9, or 10, nor any of the remaining claims which depend therefrom. For all the foregoing reasons, reconsideration and allowance of claims 1-11 is respectfully requested.

#### Claim Rejections Under 35 USC § 103

Claims 4-6 and 11 are rejected under 35 USC § 103(a) as being unpatentable over Fisher et al. in view of U.S. Patent No. 6,334,219 ("Hill"). Applicants respectfully traverse the rejection.

In view of the above arguments regarding the distinctions between the methods and apparatus of the claimed invention and the disclosure of Fisher et al., Applicants submit that the disclosure of Hill in no way makes up for the shortcomings of Fisher et al. Specifically, as addressed in our previous response dated April 16, 2004, Hill fails to disclose, teach or suggest separating the framing signal portion of the electrical signal (or signal power in the framing portion) from the noise in the time slot of the framing signal portion.

Accordingly, it would not be obvious from Fisher et al. in view of Hill to employ a notch filter as claimed in claims 4, 5 and 6, or to use any type of filter device adapted to filter out the spectral content of the framing signal of a SONET

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signal, as claimed in claim 11. Accordingly, Applicants submit that the disclosure of Fisher et al. and Hill do not render obvious claims 4-6, nor claim 11, and respectfully request that the rejections under 35 USC § 103 be withdrawn.

### Conclusion

In so far as the Examiner's objections and rejections have been fully addressed, the instant application, including claims 1 - 11, is in condition for allowance. A Notice of Allowability is therefore earnestly solicited.

If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact the undersigned to resolve these issues.

Respectfully submitted,

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